

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION**

Kalishwar Das,)	Civil Action No. <u>0:19-1290-JMC-PJG</u>
)	
Plaintiff,)	
)	
vs.)	
)	
)	<u>NOTICE OF REMOVAL</u>
Pushpa Inc., Rajesh Hassani, United States)	
Department of Labor, Wage and Hour)	
Division,)	
)	
Defendants.)	
)	

TO: UNITED STATES DISTRICT COURT, DISTRICT OF SOUTH CAROLINA

PLEASE TAKE NOTICE that Defendants Pushpa Discount Store, Inc., improperly identified as Pushpa Inc., and Rajesh Hassani (collectively, “Pushpa Defendants”), by and through their undersigned counsel, hereby remove this action from the York County Court of Common Pleas to the United States District Court for the District of South Carolina, Rock Hill Division.

I. NATURE OF ACTION

On April 2, 2019, Plaintiff Kalishwar Das filed his *pro se* Complaint in the York County Court of Common Pleas, Civil Action No. 2019-CP-46-01187, against Defendants purporting to allege: (1) violations of the Fair Labor Standards Act, 29 U.S.C. §§ 201 through 219 (“FLSA”); (2) violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e through 2000e17 (“Title VII”); and (3) numerous state law claims.

II. NOTICE OF REMOVAL IS TIMELY

1. Defendant Pushpa Discount Store, Inc. was served with a copy of the Summons and Complaint on April 9, 2019.

2. This Notice of Removal is timely as it was filed within 30 days of service. *See* 28

U.S.C. § 1446(b) (“The notice of removal of a civil action or proceeding shall be filed within thirty (30) days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based . . .”).

III. FEDERAL JURISDICTION EXISTS

3. Pursuant to 28 U.S.C. § 1441(a), cases that are subject to removal include “any civil action brought in a state court of which the District Courts of the United States have original jurisdiction.”

4. Under 28 U.S.C. § 1331, as set forth below, the District Court has original jurisdiction over this civil action as it purports to bring claims under the Constitution, laws, or treaties of the United States, specifically the FLSA and Title VII.

5. This Court also has jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C. § 1367, as all claims derive from a common nucleus of operative fact. *See United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966).

6. Section 1367 provides that “in any civil action of which the District Courts have original jurisdiction, the District Court shall have supplemental jurisdiction over all other claims that are so related to the claims in the action within such original jurisdiction that they form part of the same case or controversy.” 28 U.S.C. § 1367.

IV. REMOVAL TO THIS DISTRICT IS PROPER

7. Venue is proper in the United States District Court for the District of South Carolina, Rock Hill Division, because the York County Court of Common Pleas sits within this federal district. *See* 28 U.S.C. §§ 1391(a), 1446(a).

V. REMOVAL REQUIREMENTS

8. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served to date upon Pushpa Discount Store, Inc., in this matter are attached hereto as **Exhibit A**.

9. This Notice of Removal will promptly be served on Plaintiff, and notice of its filing will be promptly filed with the Clerk of Court for the York County Court of Common Pleas, pursuant to 28 U.S.C. § 1446(d).

10. Defendant United States Department of Labor, Wage and Hour Division, consents to this removal.

VI. RESERVATION OF RIGHTS

11. Pushpa Defendants reserve any and all rights to assert any defenses to Plaintiff's Complaint, including the right to file dispositive motions pursuant to Rule 12 of the Federal Rules of Civil Procedure.

12. Pushpa Defendants reserve the right to amend or supplement this Notice of Removal.

(Signature Page Follows)

Respectfully submitted,

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Columbia, South Carolina
May 2, 2019